RAIL SHUTTLE BUS SERVICE ADMINISTRATION AGREEMENT -
MENLO PARK MIDDAY - CALTRAIN
(JPB Operated - Lead Organization Managed)

This Rail Shuttle Bus Service Administration Agreement ("Agreement") is entered into this 24th day of November, 2014, by and between the Peninsula Corridor Joint Powers Board, a joint powers authority ("JPB") and City of Menlo Park ("Lead Organization").

RECITALS

A. Lead Organization has applied to the JPB for authorization to participate in a shuttle bus service ("Shuttle Service") as part of the JPB's Shuttle Bus Program ("Program"), and the JPB has approved this application, subject to the execution of this Agreement.

B. The purpose of this Agreement is to set forth the terms and conditions of Lead Organization's proposed operation of the Shuttle and participation in the Program.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. **Authorization.** Subject to the terms and conditions set forth below, Lead Organization hereby is authorized to participate in the Program. The Menlo Park Midday Shuttle ("Shuttle") shall operate to and from the Menlo Park Caltrain Station, Menlo Park, California, and other areas throughout the Menlo Park community along the route shown on the map attached to this Agreement as Exhibit A, and described in the schedule attached to this Agreement as Exhibit B. The route and frequency of the Shuttle may be reasonably modified by the Lead Organization from time to time with final JPB approval. Lead Organization understands and agrees that more than one participant may be served by the Shuttle.

2. **Lead Organization.** Lead Organization acknowledges that it has been selected and accepts the position of Lead Organization on behalf of all organizations served by the Shuttle. As Lead Organization, Lead Organization shall provide the projected minimum One Hundred Percent (100%) financial share in additional to all mutually approved startup expenses incurred by JPB. Lead Organization may seek appropriate contributions from participating organizations for reimbursement of amounts expended by Lead Organization hereunder, it being understood that Lead Organization shall not seek or make a profit from serving as Lead Organization. The JPB has no responsibility to collect any such amounts from such other organizations participating in the Program to be serviced by the Shuttle.
3. **Shuttle Service Vendor.** JPB shall make available to Lead Organization the above described Shuttle Service operated by the JPB's Shuttle Provider ("Vendor") in full accordance with the terms and conditions of the contract between the JPB and the Vendor. The Lead Organization will have daily management responsibilities for the Shuttle.

Lead Organization shall be responsible for supplying and/or completing any grant-related reporting information. JPB shall assist Lead Organization in obtaining appropriate reporting information.

4. **Term.** The term of this Agreement shall be for 12 months commencing July 1, 2014 and ending June 30, 2015. This Agreement may be terminated by either party without cause by giving thirty (30) days prior written notice to the other in the manner provided below.

JPB budget decisions are subject to the discretion of the JPB's Executive Director and the JPB's Board of Directors. This Agreement will terminate without penalty, liability or expense of any kind to JPB, if funds are not appropriated for the current fiscal year. If funds are appropriated for a portion of the current fiscal year, this Agreement will terminate without penalty, liability or expense of any kind to JPB, at the end of the term for which the funds are appropriated. If expected revenues, from pending or future grant applications, which are intended to fulfill any portion of the JPB contribution under this Agreement, are not approved and/or received by the JPB, this Agreement will terminate without penalty, liability or expense of any kind to JPB, at the end of the term for which the funds are appropriated. JPB has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements.

The term of this Agreement may be extended to cover additional funding periods of up to twelve months each, by mutual written agreement. In the event that the Agreement term is extended, the Parties shall set forth any terms, including the JPB's maximum contribution, that will be applicable during the period(s) of extension.

5. **Maximum Contribution: Payment.** The JPB's maximum contribution (which includes contributions from all other funding agencies involved, if any) for Shuttle Service during the base term of this Agreement shall not exceed Zero Dollars ($0), which is Zero Percent (0%) of the estimated total operating costs for the Shuttle Service as determined by the JPB.

6. **Lead Organization's Payment.** Lead Organization shall pay One-Hundred Percent (100%) of the total actual costs of operating the Shuttle Service described in Section 1 of this Agreement during the term of this Agreement. Lead Organization may also be responsible for paying a reasonable administrative fee to the JPB, which fee will be determined by the JPB on an annual basis. Lead Organization's 100% share shall equal One Hundred and Ninety Five Thousand, Five Hundred and Thirty Dollars ($195,530), subject to a final adjustment as provided below. Lead Organization shall pay based on monthly invoices from the JPB. Lead Organization shall pay each invoice within thirty (30) days from the date of the invoice. In the event 100% of the actual cost of operating the Shuttle during the term of this Agreement exceeds Lead Organization's total payments, excluding any Administration fee, upon adequate substantiation of such cost overrun, Lead Organization shall pay to JPB the difference within
thirty (30) days of JPB’s request for it. All payments required under this Agreement shall be made by check or money order and delivered to the following address:

Peninsula Corridor Joint Powers Board  
1250 San Carlos Avenue  
San Carlos, CA 94070  
Attention: Director of Finance

Lead Organization shall be solely responsible for collecting any amounts owed by other organizations participating in the Program to be serviced by the Shuttle, if any.

7. **Audit Requirements.** For the duration of this Agreement, and for a period of three years thereafter, Lead Organization shall make available, during normal business hours and upon reasonable notice, to the JPB and/or the Bay Area Air Quality Management District ("BAAQMD"), or an independent auditor selected by either or both of them, all records relating to Lead Organization's participation in the Program including, but not limited to, all records of receipts and expenditures, promptly upon request. The JPB and/or BAAQMD shall bear its own costs connected with such audit, including the cost of an independent auditor. Lead Organization shall only be responsible for its own costs for making available all records relating to Lead Organization's participation in the Program in the event such an audit is requested.

8. **Reporting Requirements.** For the duration of this Agreement, including any extension terms, and for a period of three years thereafter, Lead Organization shall assist JPB with any reporting requirements related to the performance of this Agreement. JPB shall bear its own costs connected with such reporting. Lead Organization shall only be responsible for its own costs for making available all records relating to the Lead Organization’s participation in the Program in the event such a report is requested. Records may include, but are not limited to ridership reports, rider surveys, customer compliments/complaints, schedule variants and effective dates.

9. **Schedule Adjustments.** All Lead Organization proposed Shuttle service adjustments must be submitted to JPB a minimum of ten (10) weeks prior to planned implementation. JPB retains the right of final approval for any proposed schedule adjustments or service changes as said changes may impact the JPB operating budget or JPB Vendor operating rules. No service changes will be implemented by Lead Organization prior to receiving written approval of said service changes, from JPB.

10. **Budget Process.** Lead Organization shall meet with JPB in November of each year to discuss and agree on projected service levels and Shuttle operating budget for the next fiscal year, which begins in July. If no notification is made or meeting occurs, JPB will budget the following years’ service based on the existing schedule’s operating parameters (daily service hours and annual service days) as operated in November.

11. **Marketing Program.** Lead Organization shall conduct, at its sole cost, a marketing program regarding the Shuttle designed to assure the funding ridership benchmark targets are met. The Lead Organization Marketing Program, will be attached and made a part of
this agreement as Exhibit C – MARKETING PROGRAM. Funding benchmark targets may change periodically during the term of this Agreement; the current targets are attached and made a part of this agreement as Exhibit D – FUNDING BENCHMARKS. These targets are subject to change during the term of this Agreement. The JPB will notify the Lead Organization of such changes and any additional requirements that may apply as a result, which Lead Organization shall then comply with.

Within the first eight (8) calendar days of the reporting quarter, the Lead Organization shall provide the JPB, a quarterly marketing update based on the four fiscal quarters (October 1, January 1, April 1, July 1,) following the provision of Shuttle Service. The update shall include progress toward milestones and other promotional elements related to the Marketing Program. Within eight (8) calendar days of the end of the term of this Agreement, and/or any extension thereof, Lead Organization shall submit to the JPB an annual report on the same statistics. All reporting shall be submitted via MS Word or Excel spreadsheet or other format as approved by the JPB, to shuttles@samtrans.com.

Any brochures, handbooks, articles, news releases, timetables, web content, or other publications regarding the Shuttle (collectively “Collateral”) if provided by Lead Organization, shall occur at its sole expense with no additional reimbursement from the JPB. All such Collateral must be approved by the JPB in advance of publication. All Collateral shall identify the granting entities as funding sources in a manner approved by JPB, with copies to the JPB. See Exhibit E. – GRANTING ENTITIES. During the term of this Agreement, funding sources may change. The JPB will notify the Lead Organization of such changes and any additional marketing requirements that may apply as a result. The updates will not require Lead Organization consent. Lead Organization shall comply with update for newly drafted marketing materials.

12. **Passenger Comments.** Lead Organization shall refer any passenger comments and/or complaints regarding quality of service or equipment, to the JPB/Caltrain toll free number (1.800.660.4287 or TTY 650.508.6448) or website (Caltrain.com), unless otherwise instructed.

13. **Indemnification.** Lead Organization shall indemnify, keep and save harmless the JPB, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority (“VTA”), the City and County of San Francisco, TransitAmerica Services Inc. (“TASI”), the BAAQMD, and their respective directors, officers, agents and employees (collectively, "Indemnitees") against any and all suits, claims or actions arising out of any injury to persons or property that may occur, or that may be alleged to have occurred, in the course of the operation of the Shuttle caused by an act or omission of Lead Organization or its employees, contractors, subcontractors, representatives or agents. JPB will notify Lead Organization promptly of any claim, the Lead Organization will have control of the defense of such claim and related settlement, and at the Lead Organization’s request and Lead Organization’s sole cost and expense, the Indemnitees will cooperate reasonably in the defense by providing information related to the Shuttle that is within their control. Except in the event of sole negligence on the part of Indemnitees, Lead Organization further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against the Indemnitees in any
such action, Lead Organization shall, at its expense, satisfy and discharge the same. This indemnity shall survive the termination of this Agreement and or any extension thereof.

Lead Organization shall be included as an Indemnitee in the agreement between the JPB and Vendor. A copy of that indemnity provision is attached as Exhibit F – INDEMNITY INCLUSION.

14. Notices. Any notice, report, request, instruction or other document required by this Agreement will be in writing and delivered in person to a representative of the parties at the address below, or by mailing the same by registered or certified mail, postage prepaid, addressed as follows:

If to the JPB: Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070
ATTN: Bus Contracts

If to Lead Organization: City of Menlo Park
701 Laurel Street
Menlo Park, CA, 94025
ATTN: Debbie Helming

Any notice served personally shall be deemed received upon delivery; any notice mailed via registered or certified mail as provided above shall be deemed received two (2) days after it is postmarked by the U.S. Mail Service. Either party may change its address by sending notice of the change to the other party as provided herein.

15. Liaison. JPB and Lead Organization shall each designate one or more persons to act as contact or liaison with the other party with regard to the day to day activities of the Program. Lead Organization's liaison shall be responsible, among other things, for complying with all reporting requirements specified in this Agreement, as well as coordinating the marketing program required by Section 9 above. Each party's liaison is as follows:

JPB Liaison: Michael Stevenson
(650) 508-7979
stevensonm@samtrans.com

Lead Organization's Liaison: Debbie Helming
(650) 858-3363
dahelming@menlopark.org

16. Attorneys' Fees. In the event legal proceedings are instituted by either of the parties to enforce any term of this Agreement or to determine the rights of the parties hereunder, the prevailing party in said proceedings shall recover, in addition to all court costs, reasonable attorneys' fees.

17. Relationship. Pursuant to this Agreement, the JPB is merely a partial funding agency for transportation provided by the Lead Organization to their (and other participants, if
any) tenants, employees, contractors, or designated agents under the Program. Nothing herein shall be deemed to create a partnership, joint venture, independent contractor or employment relationship between the JPB and Lead Organization.

18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California as applied to contracts made and performed entirely in California.

19. **Successors.** These Agreement obligations created under this Agreement shall be binding on, and the rights established herein shall inure to the benefit of, the successors and assigns of the parties hereto.

20. **Assignment.** Lead Organization may not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of Agency.

21. **Modification.** This Agreement may be modified or amended only by a written document signed by both parties.

22. **Dispute Resolution.** The JPB and the Lead Organization agree to attempt in good faith to resolve all disputes informally. If agreed to by both parties, alternate methods of dispute resolution, such as mediation, may be utilized. Unless otherwise directed by the JPB, the Lead Organization shall continue performance under this Agreement while matters in dispute are being resolved.

23. **Interpretation.** Section headings are solely for convenience and are not intended to affect the interpretation of the Agreement. The Agreement will be interpreted reasonably, not in favor of or against either party.

24. **No Third Party Rights.** The parties do not intend this Agreement to create rights in any third parties and nothing in this Agreement should be construed to do so.

25. **JPB Warranties.** The JPB makes no warranties or representations, either express or implied, beyond such as are explicitly stated in this Agreement.

26. **Severability.** If any provision of this Agreement or any portion thereof is held to be invalid or unenforceable for any reason, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event such provision will be severable and will not affect the validity or enforceability of any other provision.

27. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written understandings of the parties on the same subject. This Agreement may only be amended in a writing signed by both of the parties hereto. The parties intend this Agreement to be an integrated agreement.
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above with the intent to be legally bound.

PENINSULA CORRIDOR JOINT POWERS BOARD

By: C. A. Arnone
Name: C. H. Harvey
Title: Deputy CEO

CITY OF MENLO PARK*

By: 
Name: Alex D. McIntyre
Title: City Manager

By: Pamela Agular
Name: Pamela Agular
Title: City Clerk

APPROVED AS TO FORM

JPB Attorney

*If Lead Organization is a corporation, this Agreement must be executed by two corporate officers, consisting of: (1) the President, Vice-President, or Chair of the Board, and (2) the Secretary, Assistant Secretary, Chief Financial Officer, Assistant Chief Financial Officer, or by any person authorized by the corporation to bind the corporation to a contract of this nature.

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EXHIBIT A

MAP OF SHUTTLE ROUTE

Route subject to change with Caltrain permission.
EXHIBIT B

SCHEDULE OF SHUTTLE SERVICE

Schedule subject to change with Caltrain permission.
EXHIBIT C

MARKETING PROGRAM

DOES NOT APPLY. NO SHUTTLE SUBSIDY.
EXHIBIT D
FUNDING BENCHMARKS

As of July 1, 2014

DOES NOT APPLY. NO SHUTTLE SUBSIDY.

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EXHIBIT E
GRANTING ENTITIES

As of July 1, 2014

NOT APPLICABLE

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EXHIBIT F
INDEMNITY INCLUSION
Amendment No. 8
To
Contract No. 05-PCJPB-S-045

Provision of Contracted Shuttle Bus Service

Contractor: Parking Company of America Management, LLC

THIS AMENDMENT modifies the Agreement for providing Contracted Shuttle Bus Service (Agreement), which was made and entered into effective October 1, 2005, by and between the Peninsula Corridor Joint Powers Board (JPB) and Parking Company of America Management LLC, (PCAM).

WHEREAS, JPB Board Resolution 2005-40 awarded PCAM a Contract for an estimated amount of $9,133,956 for a three-year base term, with two one-year option terms; and

WHEREAS, prior to the expiration of the Agreement, JPB Board Resolution 2010-36 authorized the Executive Director or his designee to extend the term of the Agreement to allow for two additional one-year terms at an estimated cost of $3,218,717 per year, exercisable at the JPB's sole discretion; and

WHEREAS, the JPB exercised the first and second additional one-year option terms (Fifth and Sixth Amendment); and

WHEREAS, the JPB now wishes to revise the indemnification and insurance requirements to update the list of JPB indemnitees and add as additional insureds other public entities for which PCAM provides contracted shuttle bus services.

NOW THEREFORE, IT IS AGREED to amend the Agreement as follows:

1. Exhibit A, Section V., Z., Insurance Requirements is amended to update the insurance requirements by deleting paragraphs 2.a., 2.b, and 2.d. in their entirety and replacing them with the following:

   2. Endorsements

   a. Additional Insured

   The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City
and County of San Francisco, TransitAmerica Services, Inc., the Union Pacific Railroad Company, and participating employers and cities in contract with the JPB, and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

b. Waiver of Subrogation

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc., the Union Pacific Railroad Company, and participating employers and cities in contract with the JPB, and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

d. Severability of Interests or Cross Liability

The referenced policies and any Excess or Umbrella policies shall contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc., the Union Pacific Railroad Company, and participating employers and cities in contract with the JPB as Additional Insureds shall not in any way affect the JPB's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the Contractor. Said policy shall protect Contractor and the JPB in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

2. Exhibit A, Section V., AA., Responsibility; Indemnification is amended to update the indemnification clause by deleting paragraph number 1 in its entirety and replacing it with the following:

1. Contractor shall indemnify, defend and hold harmless the JPB and its member agencies, the San Mateo County Transit District, the Santa Clara Valley Transit Authority, the City and County of San Francisco, TransitAmerica Services, Inc. ("TASI"), the Bay Area Air Quality Management District, participating employers and cities in contract with the JPB, and their respective board members, officers, agents, employees, representatives, and attorneys, and each one of them (hereinafter, collectively "Indemnitees") from any liability in any amount for damages or injuries or claims for same resulting or alleged to have resulted from personal injury (including, but not limited to death, emotional or mental distress and loss of consortium) and/or for property damage, which may arise or is alleged to have arisen in any way from Contractor's operation of the services described hereunder, or in any way related to the provision of the Shuttle Service as contemplated by the Contract, including but limited to the maintenance or
repair of vehicles. Contractor's obligations and duties as established in this provision will be in force and apply to Contractor's acts, omissions or failures to act of any kind whether negligent, the result of Contractor's willful or intentional misconduct, or otherwise, and shall further apply and be in force even if it is contended that the acts, omissions or failures to act of parties (including Indemnities) other than Contractor caused or contributed to the loss, injuries or damages claimed.

3. Except for those changes expressly specified in this Eighth Amendment and as previously amended by Amendments 1 through 7, all other provisions, requirements, conditions and sections of the underlying Agreement shall remain in full force and effect.

Peninsula Corridor Joint Powers Board

By: [Signature]
Title: Contract Officer
Date: 2/28/2013

Parking Company of America Management, LLC: (See footnote below)*

By: [Signature]
Title: President
By: [Signature]
Title: CEO

*This Amendment must be executed by two corporate officers, consisting of:
(1) the President, Vice President, or Chair of the Board, AND
(2) the Secretary, Assistant Secretary, Chief Financial Officer, Assistant CFO, Treasurer, or Assistant Treasurer.